

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TAL PROPERTIES OF POMONA, LLC and
AVROHOM MANES

Plaintiffs,

ORDER

v.

19-cv-06838 (PMH)

VILLAGE OF POMONA, et al.,

Defendants.

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PHILIP M. HALPERN, United States District Judge:

On July 8, 2020 the Court held a telephonic conference and granted Plaintiffs’ request for permission to file a Second Amended Complaint. During the conference a dispute arose regarding whether certain information in ¶ 171 of the proposed Second Amended Complaint contained privileged material. Plaintiffs were directed to file the Second Amended Complaint but redact ¶ 171 pending the Court’s decision on whether the information in ¶ 171 was privileged and should be stricken. The redacted Second Amended Complaint was publicly filed on the docket (Doc. 93) and an unredacted version of the Second Amended Complaint was sent via email to chambers. By Minute Entry dated July 8, 2020, I directed the parties to submit letters regarding whether ¶ 171 included privileged information. Defendants submitted their letter on July 15, 2020 (Doc. 95) and Plaintiffs submitted their opposition on July 22, 2020 (Doc. 96). Both parties subsequently sent emails to Chambers with additional information for the Court’s consideration.


The disputed material in ¶ 171 quoted a June 27, 2018 “Confidential Memorandum” sent by Doris Ulman to Brett Yagel, Mayor of the Village of Pomona, and the Village of Pomona Board of Trustees (the “Memo”). Based on a review of the parties’ letters and the Memo itself, the Court finds that the Memo is privileged and that the privilege has not been waived. *See United States v.*

Krug, 868 F.3d 82, 86 (2d Cir. 2017) (quoting *United States v. Mejia*, 655 F.3d 126, 131 (2d Cir. 2011)); *see also Bus. Integration Servs., Inc. v. AT & T Corp.*, 251 F.R.D. 121, 123 (S.D.N.Y. 2008), *aff'd*, No. 06-CV-1863, 2008 WL 5159781 (S.D.N.Y. Dec. 9, 2008).

Accordingly, the Court strikes ¶ 171 from the Second Amended Complaint and directs Plaintiff to refile its Second Amended Complaint with ¶ 171 removed.

SO ORDERED:

Dated: New York, New York
July 27, 2020



Philip M. Halpern
United States District Judge